



ADAM I. KLEINBERG
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November 18, 2020

VIA ECF

Honorable Brenda K. Sannes
United States District Court
Northern District of New York
Federal Building and U.S. Courthouse
P.O. Box 7336
Syracuse, NY 13261-7336

Re: *Doe et. al. v. Zucker et. al.*
Docket No. 20-CV-0840 (BKS) (CFH)
File No. 200125

Dear Judge Sannes:

We, along with the law office of Johnson & Laws, LLC, represent defendants South Huntington Union Free School District, Three Village Central School District, Ithaca City School District, Albany City School District, David Bennardo, Cheryl Pedisich, Corinne Keane, Dr. Luvelle Brown, Susan Eschbach, Kaweeda Adams, and Michael Paolino.

We write in response to plaintiffs' proposed order to show cause filed on November 17, 2020 seeking a second attempt at obtaining a temporary restraining order and preliminary injunction.

We join in the position asserted by the New York State Attorney General's Office in their letter today. We agree that plaintiffs' filing of a notice of appeal with the Second Circuit divested the District Court of jurisdiction over the issues raised in this proposed order to show cause. *See Rossi v. Celli*, 2000 WL 35730984 (N.D.N.Y. 2000) (*citing Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) ("The filing of a notice of appeal is an event of jurisdictional significance- it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal."))

On Friday, November 13, 2020, plaintiffs filed a notice of appeal with the Second Circuit challenging the denial of the preliminary injunction (*See* Docket Entry No. 113). They appeal Your Honor's denial of the preliminary injunction application which addressed, in part, this very issue

of remote learning. We respectfully submit there is no jurisdiction to grant the order to show cause or any temporary restraining order.

We too ask the Court to deny the second request for a temporary restraining order and preliminary injunction for lack of jurisdiction and join in the request that, to the extent any such relief is afforded it is limited to only the named plaintiffs as there is no class certification.

Further, if the Court disagrees with defendants' position, that we be afforded two weeks to submit opposition papers (which would take into account the upcoming Thanksgiving holiday).

Thank you for your consideration of this matter.

Respectfully submitted,

SOKOLOFF STERN LLP

A handwritten signature in black ink, appearing to read 'AK', with a stylized flourish extending from the end.

ADAM I. KLEINBERG

CC: All counsel of record (via ECF)